

MARIA VELASCO AND MARIA ABORDE, PLAINTIFFS AND APPELLANTS, VS. CARLOS VELASCO, DEFENDANT AND APPELLEE.*G.R. No. 15129. June 30, 1961*

Ponente: PAREDES, J.

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Fr. Mariano Velasco, Exequiel Velasco, Filomena M. Velasco, Jose M. Velasco and Santiago M. Velasco, were brothers. Plaintiff Maria Velasco was the daughter of Graciano Velasco, a son of Exequiel Velasco; while plaintiff Maria Aborde, was the daughter of Balbina Velasco, deceased daughter of Exequiel Velasco. In 1917, Exequiel died intestate, leaving properties designated as Parcel 1, Parcel II and Parcel III, in the complaint, which were placed under his administration. In 1929, defendant Carlos Velasco, a natural son of Fr. Mariano, took possession of Parcels I and II and claimed ownership thereof. Parcel III was the subject of a litigation, for recovery of ownership, between Maria Aborde and her husband Pascual Bihag, as plaintiffs, and Carlos Velasco, as defendant (Annex D, Case No. 833, CFI, Camarines Sur), but the former lost the case because of the presentation of certain documents (Annexes A, B, & C of the complaint), by the defendant, the validity and genuineness of which have not been questioned. The decision of the lower court in said case No. 833, was confirmed by the Court of Appeals (CA—G. R. No. 8085—R).

Annex A of the complaint, some as Exhibit 5-A, purports to be a document signed by Exequiel Velasco grandfather of the appellants, as administrator of certain parcels of land, Fr. Mariano Velasco, Filomena, Jose and Santiago, evidencing the distribution of the properties supposedly purchased by the late Fr. Mariano and acknowledging that they did not belong to Exequiel. Annex B, same as Exhibit 6-A, is apparently a document signed by Exequiel, ceding the properties situated in Bantolinao, Gotob, Sabang, Mainit and Ermita, to Carlos Velasco. Annex C, same as Exhibit 1-A, is supposed to be an undated letter written by Exequiel and addressed to Maria Aborde and Pascual Bihag, confirming the fact that the lands mentioned in Exhibit 6-A, originally belonged to Fr. Mariano.

The present complaint prays: (1) under the first cause of action, that plaintiffs be declared the owners in common of parcels I and II and that co-plaintiff Maria Aborde be declared the exclusive owner of parcels III; that the defendant Carlos Velasco vacate parcels I and II and deliver the possession thereof to plaintiffs; and that the documents Annexes A, B, and C of the complaint, be declared null and void for being false and forged; (2) under the second cause of action, that the judgment of the Court of Appeals in CA G. R. No. 8085—R (CFI Civil Case No. 833, Cam. Sur), be annulled and set aside the same having been obtained by defendant thru fraudulent means and machinations, by presenting in said case falsified and forged exhibits; that the Provincial Sheriff of Camarines Sur be impeded from executing the judgment in CA-G.R. No. 8085-R; which had already become final and executory; and (3) under the third cause of action, that the defendant be ordered to pay the plaintiffs the sum of P500.00 for attorney's fees and costs and the further sum of P2,000.00 for actual and moral damages.

On October 24, 1956, the defendant filed a motion to dismiss the complaint on the grounds that the plaintiffs' causes of action are barred by a prior judgment and their causes of action have long prescribed.

In a resolution handed down on November 14, 1956, the lower court held:

"The first ground alleged in support of the motion to dismiss is not tenable because there is no identity of the parties and subject-matter. In the former case, one of the plaintiffs herein was not a party and the two parcels of land sought to be recovered in this action were not involved in the prior litigation. Prescription cannot be alleged either as a ground for dismissal for the reason that although the complaint alleges that the defendant took possession of the lands in question in 1929, it does not aver that since that year he has been possessing the land openly, publicly and under a claim of title exclusive of any other right. The complaint merely states that the defendant now claims ownership over two of the parcels in litigation."

On November 27, 1956, defendant filed an answer, with affirmative defenses and counterclaim, to which plaintiffs replied.

On October 11, 1956, defendant filed a motion for reconsideration of the order denying the motion to dismiss. An order was issued on October 24, 1957, stating that "the motion to dismiss this case as to Maria Aborde so far as parcel III is concerned is hereby sustained". Plaintiffs appealed the order, but the Court of Appeals certified it to Us, the question raised being purely legal in nature.

In upholding the cause of the defendant-appellee, the trial court held that: (1) the issue of genuineness and validity of annexes A, B, and C, of the complaint, were necessarily involved in Civil Case No. 833; (2) the judgment rendered in Civil Case No. 833 is conclusive on the validity and genuineness of said annexes, between Maria Aborde and Carlos Velasco, with respect to parcel III; (3) Annexes A, B and C can no longer be drawn in any subsequent case, as far as parcel III is concerned, even if said documents are in truth forgeries; and (4) the judgment rendered in said case No. 833, can no longer be annulled.

The primordial question, therefore, to determine is whether or not the former judgment in case No. 833 is at bar, under the principles of *res judicata*, on the present case, as far as parcel III is concerned.

Appellants even admit that "If ever the decision in case No. 833 would be conclusive, its conclusiveness would only affect plaintiffs therein, namely, Maria Aborde and Pascual Bihag" (appellants' brief). The fact that Maria Velasco is an additional plaintiff in the present case, and was not a party-plaintiff in the former case, does not remove the case from the operation of the principle of *res judicata*.

"* * * although in the second action there are joined parties who were not joined in the first action, there is still *res adjudicata* if the party against whom the judgment is offered in evidence was a party in the first action (Peñalosa vs. Tuason, 22 Phil., 303-323). Otherwise, no matter how often a case be decided, the parties might renew the litigation by simply joining new parties (Alzua and Arnalot vs. Johnson, 21 Phil., 308, 374)" (San Diego vs. Cardona, 40 Off. Gaz., Supp. No. 12, 116).

Maria Velasco and Maria Aborde were first degree cousins and had a community of interest. They alleged co-ownership over the properties in question, with defendant Carlos Velasco. One plaintiff is a privy to her co-plaintiff. The subject matter in case No. 833 is the same parcel of land situated in Mainit, described as Parcel III, in the present complaint. The cause of action in case (No. 833), was for declaration of ownership and recovery of possession; the present complaint seeks to avoid Exhibits 5-A, 6-A and 1-A (same as annexes A, B, and C) presented in the said case (No. 833), on the ground of forgery, and to annul the decision of the Court of Appeals, in order that they (plaintiffs-appellants), may be declared owners of the properties in question. It should be noted that the same evidence would support and established both the present and the former causes of action. The probability that the documents were forged is irrelevant.

"* * * Briefly stated, this doctrine is that an existing final judgment or decree rendered upon the merits, and without fraud or collusion, by a court of competent jurisdiction, upon a matter within its jurisdiction, is

conclusive of the rights of the parties or their privies, in all other actions, or suits in the same or any other judicial tribunal of concurrent jurisdiction, on the points and matters in issue in the first suit. (15 R. C. L., 949-951.)" *National Bank vs. Barreto*, 52 Phil., 823-824).

"* * * an adjudication is finally conclusive not only as to the matter actually determined, but as to every other matter which the parties might have litigated and have had decided incident to or essentially connected with the subject matter of litigation, and every matter coming within the legitimate purview of the original action, both with respect to matter of claim and of defense" (*Miranda vs. Tiangco, et al.*, 96 Phil., 526; 51 Off. Gaz., [3] 1366; *NAMARCO vs. Macadaeg*, 98 Phil., 185; 52 Off. Gaz., 182; *Alfredo Pua vs. Lapitan*, 107 Phil., 95; 57 Off. Gaz., 4914).

The judgment in Civil Case No. 833 (CA-G. R. No. 8085-R) can no longer be annulled. As a general rule, extrinsic or collateral fraud, would warrant a court of justice to set aside or annul a judgment, based on fraud (*Labayen, et al. vs. Talisay-Silay Milling Co.*, 68 Phil., 376). 45843, June 30, 1939, L. J. Aug. 15, 1939). In seeking the annulment of the decision of Civil Case No. 833 (CA-G. R. No. 8085-R), the alleged fraud does not refer to jurisdiction, but to the admission by the trial court in said case of supposedly false or forged documents, which is intrinsic in character.

It appearing that the issue of prescription of action has not been mentioned by any of the parties in their briefs, the same is deemed abandoned.

Wherefore, the order dated October 24, 1958, dismissing the complaint of Maria Aborde, with respect to Parcel III is hereby affirmed, with costs against the appellants.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, De Leon, and Natividad, JJ., concur.

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